

The staff of the House
Government operations Sub-
Committee called —
They unanimously
support an exemption
for the Agency
from H.R. 12206
The Koch Bill which
is now in mark-up.

(The bill grants anyone
right to access to
all records concerning
him maintained by
Gov. & Agency.)

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CENTRAL INTELLIGENCE AGENCY
WASHINGTON, D. C. 20505

TO:

FROM: John S. Warner
Legislative Counsel
Telephone: 351-6121 (Code 143-6121)

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*orig. 7/9/68
sent to
moonhead
attn Wm. Phillips*

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SUBJECT: (Optional)

FROM:

Legislative Counsel

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4151

NO.

DATE

26 April 1974

TO: (Officer designation, room number, and building)

DATE

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COMMENTS (Number each comment to show from whom to whom. Draw a line across column after each comment.)

1.

Director

4/27

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/b/p

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Attached is a suggested reply to Chairman Moorhead's request for a statement for the record by Monday in connection with hearings to commence on Tuesday on several rights of privacy bills relating to Government records.

The General Counsel concurred in the suggested reply.

ST

Legislative Counsel

ER: Please return to OLC for handcarry.

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FORM
3-62

610

USE PREVIOUS
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COMMENT		FILE	RETURN
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74-3414/1A

CENTRAL INTELLIGENCE AGENCY
WASHINGTON, D.C. 20505

29 APR 1974

Honorable William S. Moorhead, Chairman
Foreign Operations and Government Information Subcommittee
Committee on Government Operations
House of Representatives
Washington, D. C. 20515

Dear Mr. Chairman:

This is in reply to your letter dated 11 April 1974 requesting a statement for the record on H.R. 12206, "To amend title 5, United States Code, to provide that persons be apprised of records concerning them which are maintained by Government agencies," and on related bills H.R. 13303 and H.R. 13872.

H.R. 12206 would add a new section 552a to title 5 of the United States Code which would:

1. preclude an agency from providing any information about an individual to any other agency unless the individual concerned is notified (paragraph (a)(1));
2. require an agency to maintain a record of the names and addresses of all persons to whom such information was provided (paragraph (a)(3));
3. permit any person to inspect his own record, to have copies made thereof, and to supplement and correct the record (paragraphs (a)(4) and (5));
4. require an agency to remove erroneous information of any kind and notify all agencies to whom the information was disseminated (paragraph (a)(6));
5. exempt records that are specifically required by Executive order to be kept secret in the interest of the national defense and foreign policy (paragraph (b)(1));

6. require an annual report to Congress on the number of records so exempted (paragraph (c)); and

7. provide "Nothing in this section shall be construed to permit transfer or similar distribution of any information deemed confidential by other statutes." (paragraph (g)).

While the other two bills are substantially similar to H.R. 12206, H.R. 13872 also establishes a Federal Privacy Board to oversee the implementation of the legislation and narrows the exemptions for records kept secret for national defense and foreign policy reasons so that the exemption applies only if disclosure would endanger military plans, reveal military weaponry, or endanger the life of any person engaged in foreign intelligence gathering operations of the United States Government.

The National Security Act of 1947 provides in part:

"(d) For the purpose of coordinating the intelligence activities of the several Government departments and agencies in the interest of national security, it shall be the duty of the Agency, under the direction of the National Security Council--

. . .

(3) to correlate and evaluate intelligence relating to the national security, and provide for the appropriate dissemination of such intelligence within the Government using where appropriate existing agencies and facilities: . . ." (50 U.S.C. 403(d)(3)).

Under this provision it is the statutory responsibility of this Agency to disseminate to other agencies foreign intelligence information on individuals and to maintain related records. As currently written the proposed legislation extends to all persons regardless of citizenship or domicile and would appear to apply to such dissemination and records. It is my hope that you would agree that the dissemination of foreign intelligence information and related records should be outside of the scope of the proposed legislation.

The National Security Act of 1947 also provides in part that:

"(d)(3) . . . And provided further, That the Director of Central Intelligence shall be responsible for protecting intelligence sources and methods from unauthorized disclosure; . . . " id

This language is viewed as explicit statutory authority for the security classification of information relating to intelligence sources and methods utilized by this Agency in connection with its foreign intelligence responsibilities. Similar explicit statutory authority exists with respect to Communications Intelligence (18 U.S.C. 798) and atomic energy Restricted Data (42 U.S.C. 2162). A paramount consideration is to protect lives, as suggested in H.R. 13872, but it is also exceedingly important that sensitive information vital to our national security not be compromised.

In the interest of resolving any possible statutory conflict, the proposed legislation should specifically exempt records protected from disclosure by statute. Moreover, since the mission of this Agency exclusively relates to the field of foreign intelligence and our records pertain to the fulfillment of that function, it is requested that this Agency be specifically exempted from the proposed legislation. Recommended language in the case of H. R. 12206 is enclosed.

Due to the deadline requested, this report was discussed in general terms with the Office of Management and Budget but was not formally cleared.

Sincerely,
/s/ W. E. Colby

W. E. Colby
Director

Enclosure

Distribution:

Orig. - Addressee

1 - DCI

1 - DDCI

1 - ER

1 - OGC

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H.R. 12206

Insert at page 3, line 19, after the word "specifically" the words:

"protected by or pursuant to statute"

Insert at page 4, line 4:

"(3) maintained by the Central Intelligence Agency."

EXECUTIVE SECRETARIAT

Routing Slip

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16	DTR				
17	Asst/DCI				
18	AO/DCI				
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SUSPENSE		23 Apr Date			

Remarks:

*No clear statement with
General Counsel & DCI.*

Executive Secretary

WILLIAM S. MOORHEAD, PA., CHAIRMAN
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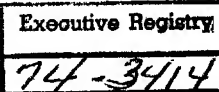
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225-3741

NINETY-THIRD CONGRESS
Congress of the United States
House of Representatives

FOREIGN OPERATIONS AND GOVERNMENT INFORMATION SUBCOMMITTEE
OF THE
COMMITTEE ON GOVERNMENT OPERATIONS
RAYBURN HOUSE OFFICE BUILDING, ROOM B-371-B
WASHINGTON, D.C. 20515



April 11, 1974

Honorable William E. Colby
Director
Central Intelligence Agency
Washington, D. C. 20505

Dear Mr. Director:

As you know, the Foreign Operations and Government Information Subcommittee of the House Committee on Government Operations is currently conducting a series of public legislative hearings on H. R. 12206 (Mr. Koch) and related bills co-sponsored by some 100 Members of the House of Representatives. The legislation would amend title 5, U.S.C. to provide that persons be given access to records concerning them which are maintained by Government agencies and additionally, as in the case of H. R. 13872 (Ms. Abzug), to provide for the privacy of such individuals' records.

It is my intention to recommend the approval of such legislation at the earliest practicable time. Thus, we need your best and most detailed advice on possible language changes and amendments to perfect this major legislation in the field of privacy.

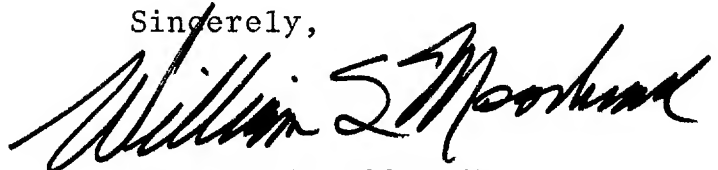
I have scheduled a public hearing for 10:00 a.m. Tuesday, April 30, in Room 2203 of the Rayburn House Office Building and would greatly appreciate a written statement submitted for the record from your agency. Please note that H. R. 13303 and H. R. 13872 were introduced following our earlier hearings in an effort to improve upon the original legislation, and they contain a number of changes from the language contained in H. R. 12206. Members also are especially interested in your reaction to HEW-proposed amendments to the bill.

Honorable William E. Colby
Page Two
April 11, 1974

In conformance with Committee rules, please arrange for at least 20 copies of your written statement to be delivered by no later than 10:00 a.m., Monday, April 29, to Mr. William G. Phillips, Subcommittee Staff Director, in Room B-371B, Rayburn House Office Building. Please do not request extensions of this deadline. A total of 50 copies will be needed by the opening of the hearing.

With kind regards,

Sincerely,

A handwritten signature in black ink, appearing to read "William S. Moorhead". The signature is fluid and cursive, with the first name "William" being the most prominent.

WILLIAM S. MOORHEAD
Chairman

Enclosures